

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 8108 of 2005

Between:

M/s. Manikanta Constructions, kurnool, rep.by its Managing Partner,

K.E.Prathap, S/o.K.E.Madanna, R/o.Krishna Nagar,
Kallur, Kurnool.

..... PETITIONER

AND

1 Kurnool Municipal Corporation, Kurnool, Kurnool District, rep.by its
Commissioner.

2 The Special officer, Kurnool, Municipal Corporation, Kurnool,
Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ, order or direction declaring the Notice U.C.NO.2/2005/TPBOV dt.4-3-2005 issued by the commissioner, Kurnool Municipal Corporation, Kurnool District, 1st Respondent herein as illegal, arbitrary, null and void and violative Articles 14 and 300-A of the Constitution of India and opposed to the very spirit and object of section 437 of the Hyderabad Municipal Corporations Act, 1955 and pass such further order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.A.V.SESHA SAI

Counsel for the Respondents: MR.A.SREEDHAR

The Court at the stage of admission made the following ORDER:

The petitioner submitted an application on 22.11.2004 to the Municipal Corporation, Kurnool, the first respondent, for according permission, to undertake construction over its site. On 02.12.2004, the Corporation is said to have informed that the petitioner shall have to hand over certain area, since the site over which the construction is proposed, is covered by the master plan. The grievance of the petitioner is that though several representations have been made, commencing from 06.12.2004, expressing its willingness to hand over the site, no orders have been passed on the application so far, and it seeks appropriate directions in this regard.

The learned counsel for the petitioner submits that a deemed permission had accrued to the petitioner and, in fact, it has collected the material to undertake construction.

The learned standing counsel for the first respondent, on instructions, submits that the Corporation is examining the matter with reference to the master plan and relevant provisions of law, and appropriate orders would be passed within a very short time.

The application submitted by the petitioner is pending since 22.11.2004. Even according to the petitioner, the respondents have addressed a letter, dated 02.12.2004, indicating that the petitioner is liable to surrender certain portion of the land. The petitioner claims to have expressed its willingness to surrender the said area. The nature of the further steps taken by the respondents is not

evident. The application of the petitioner cannot be kept pending indefinitely. As a matter of fact, a deemed permission would accrue to the petitioner, if the application remains unattended to.

For the foregoing reasons, the writ petition is disposed of directing the first respondent to pass appropriate orders on the application, dated 22.11.2004, submitted by the petitioner, within a period of two weeks from today. The petitioner shall not undertake any construction till then. It is, however, made clear that in case the first respondent fails to pass orders, as indicated above, it shall be open to the petitioner to proceed with the work in accordance with the relevant byelaws and duly observing the set backs and F.S.I. earmarked for the area concerned. There shall be no order as to costs.

28.04.2005

Note:

Issue CC in three days.

(BO)

ksld

To

1 Kurnool Municipal Corporation, Kurnool, Kurnool District, rep.by its

Commissioner.

2 The Special officer, Kurnool, Municipal Corporation, Kurnool,

Kurnool District.

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